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A bill to be entitled

An act relating to disaster preparedness response and recovery; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 252.63, Florida Statutes, is created to read:

252.63 Florida Disaster Supplier Program Council.--

(1) The Florida Disaster Supplier Program Council is created under the Department of Community Affairs.

(a) The Council shall consist of 7 members, comprised of one county emergency management director from each of the seven Divisions of Emergency Management operational regions, as designated by the Florida Emergency Preparedness Association. The council shall make recommendations for a voluntarily local program to be established as the Florida Disaster Supplier Program. The intent of the Florida Disaster Supplier Program shall be to establish statewide oversight of the availability and provision of necessary supplies prior to, during and following a state of emergency or natural or manmade disaster or catastrophe. The disaster supplier program shall allow businesses to voluntarily participate in the program and provide the sale of emergency use supplies and services before, during and following an emergency or disaster under the conditions set forth in this section. The Disaster Supplier Program Council shall recommend guidelines and administration standards for participating counties. Participation in the program shall be at the option of each county governing body within the state. Each county choosing

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29 to participate in the program shall be responsible for  
30 administering the program within that county.

31 (b) The Florida Disaster Supplier Program shall be designed  
32 to in no way interfere with the normal and ongoing commerce  
33 occurring in any political subdivision of the State. The intent  
34 of the program is to assist in the rapid recovery of an area  
35 affected by a manmade or natural disaster and to stimulate local  
36 economies immediately in a post disaster recovery. Additionally,  
37 this program shall be designed to provide the public with  
38 alternative access to certain commodities as recommended by the  
39 council.

40 (c) The members of the council shall elect a chair and a  
41 vice chair from among their membership. The chair shall preside  
42 at all meetings of the council.

43 (d) The council shall meet at the call of the chair or at  
44 the request of a majority of its membership.

45 (e) Members shall serve for the duration of the existence  
46 of the council. A vacancy on the council shall be filled by the  
47 chair according to the original membership stipulations until the  
48 council is terminated.

49 (f) Members of the council shall serve without  
50 compensation, but shall be entitled to per diem and travel  
51 expenses as provided in s. 112.061, F.S., while engaged in the  
52 performance of their official duties.

53 (2) Duties and responsibilities.--Duties and  
54 responsibilities of the council shall include, but not be limited  
55 to, recommending to the division:

56 (a) State disaster preparedness criteria necessary for  
57 implementation of the program.

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58        (b) Methodology for granting access to participating  
59 business for means of operating, supplying and staffing of their  
60 business units in times of emergency when and where feasible  
61 under the existing emergency conditions.

62        (c) A statewide system of certification for disaster  
63 suppliers in the following categories:

64        pharmaceutical, food and water, building supplies, ice and  
65 other suppliers as may be necessary.

66        (d) The possible assessment of an annual program membership  
67 fee for businesses voluntarily seeking to obtain certification as  
68 a state disaster supplier under the established program  
69 guidelines. The determination of the applicability or non-  
70 applicability of any fees shall include county surveys and input  
71 from business, industry, and state agencies enumerated to  
72 establish the requirements for any necessary fees. Any  
73 recommendation on fees shall be contained in the report required  
74 in Subsection (8).

75        (e) A State Emergency Response Team (SERT) logo that bears  
76 the name of the State and the type of supplies being provided by  
77 the supplier may be displayed by businesses participating in the  
78 voluntary program.

79        (3) Upon the recommendations of the council, certification  
80 of a business requesting to participate in the program shall be  
81 conducted through County Emergency Managers or designees as set  
82 forth by the county's elected governing body. Participating  
83 counties shall use the certification standards as developed by  
84 the Florida Disaster Supplier Program Council.

85        (4) Collection of Program Membership Fees. If applicable,  
86 methods for collecting program membership fees shall be

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determined by the Council. If applicable, program membership fees collected shall be used in whole or part to recover the administrative cost of the program and as may be recommended by the Council.

(5) Use of Program Membership Fees. -- If applicable, program membership fees shall be used by the participating counties and State agencies as may be determined by the recommendations of the Council and provided by law.

(6) Report.--The Council shall submit a report on the development and implementation of the program to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than February 1, 2007. The report shall include recommendations for any needed legislation and recommended fees with respect to the program and its effect on the provision of supplies within the state during a state of emergency or natural or manmade disaster or catastrophe.

(7) TERMINATION.--The Council shall terminate on July 1, 2008.

Section 2. Section 526.143, Florida Statutes, is created to read:

526.143 Alternate generated power capacity for motor fuel dispensing facilities.--

(1) No later than December 31, 2006, each motor fuel terminal facility, as defined in s. 526.303, and wholesaler, as defined in s. 526.303, which sells motor fuel in this state must be capable of operating its distribution loading racks using an alternate generated power source for a minimum of 72 hours. Pending a post-disaster examination of the equipment by the operator to determine any extenuating damage that would render it

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116 unsafe to use, the facility must have such alternate generated  
117 power source available for operation no later than 36 hours after  
118 a major disaster, as defined in s. 252.34. Initial inspection for  
119 proper installation and operation shall be completed by a local  
120 building inspector, and verification of the inspection must be  
121 submitted to the local county emergency management director.  
122 Inspectors from the Department of Agriculture and Consumer  
123 Services shall perform a periodic visual inspection to assure  
124 that the emergency auxiliary electrical equipment is installed.  
125 Each facility shall perform annual inspections ensuring that the  
126 emergency auxiliary electrical generators are in good working  
127 order and show proof of those inspections in order to be deemed  
128 in compliance and to participate in the fuel supplier program.

129 (2) Each newly constructed or substantially renovated motor  
130 fuel retail outlet, as defined in s. 526.303, for which a  
131 certificate of occupancy is issued on or after July 1, 2006,  
132 shall be pre-wired with an appropriate transfer switch, and  
133 capable of operating all fuel pumps, dispensing equipment, life-  
134 safety systems, and payment acceptance equipment using an  
135 alternate generated power source. As used in this subsection, the  
136 term "substantially renovated" means a renovation that results in  
137 an increase of greater than 50 percent in the assessed value of  
138 the motor fuel retail outlet. Local building inspectors shall  
139 include this equipment and operations check in the normal  
140 inspection process before issuing a certificate of occupancy. A  
141 copy of the certificate of occupancy shall be provided to the  
142 local county emergency management director upon issuance of such  
143 certificate. Each facility shall perform periodic inspections  
144 ensuring that the installed transfer switch or emergency

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145 auxiliary electrical generators is in good working order and show  
146 proof of those inspections to the county emergency management  
147 director in order to be in compliance and to participate in the  
148 fuel supplier program.

149 (3) (a) No later than December 31, 2006, each motor fuel  
150 retail outlet described in subparagraphs 1., 2., or 3., which is  
151 located within ½ mile proximate to an interstate highway or state  
152 or federally designated evacuation route must be pre-wired with  
153 an appropriate transfer switch and be capable of operating all  
154 fuel pumps, dispensing equipment, life-safety systems, and  
155 payment-acceptance equipment using an alternate generated power  
156 source:

157 1. A motor fuel retail outlet located in a county having a  
158 population of 300,000 or more which has 16 or more fueling  
159 positions.

160 2. A motor fuel retail outlet located in a county having a  
161 population of 100,000 or more, but fewer than 300,000 which has  
162 12 or more fueling positions.

163 3. A motor fuel retail outlet located in a county having a  
164 population of fewer than 100,000 which has eight or more fueling  
165 positions.

166 (b) Installation of the wiring and transfer switch shall be  
167 performed by a certified electrical contractor. Each retail  
168 outlet that is subject to this subsection must keep a copy of the  
169 documentation of such installation on site or at its corporate  
170 headquarters. In addition, each retail outlet must keep a  
171 written statement attesting to the periodic testing and ensured  
172 operational capacity of the equipment. The required documents  
173 must be made available, upon request, to the Division of

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Emergency Management and the director of the county emergency management agency.

(4)(a) Subsections (2) and (3) apply to any self-service, full-service or combination self and full service motor fuel outlet regardless of whether the business is located on the grounds of, or is owned by, another retail business establishment that does not engage in the business of selling motor fuel.

(b) Subsections (2) and (3) do not apply to:

1. An automobile dealer;

2. A person who operates a fleet of motor vehicles; or

3. A person who sells motor fuel exclusively to a fleet of motor vehicles.

(5) If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 3. Section 526.144, Florida Statutes, is created to read:

526.144 Florida Disaster Motor Fuel Supplier Program.--

(1) There is created the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs. The Florida Disaster Motor Fuel Supplier Program will allow any motor fuel retail outlet doing business in the state to participate in a network of emergency responders to provide fuel supplies and services to government, medical, critical infrastructure, and other responders, as well as the general public, in a declared disaster, as described in s. 252.36(2). Participation in the program will require pre-certification of preparedness to provide

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203 emergency services by the Division of Emergency Management or the  
 204 local county emergency management director. Requirements for pre-  
 205 certification shall be established by the Division of Emergency  
 206 Management or the local county emergency management director no  
 207 later than July 1, 2007. Businesses that are pre-certified will  
 208 be issued a State Emergency Response Team logo for public display  
 209 to alert responders and the public that the business is capable  
 210 of assisting in an emergency. In counties with active programs,  
 211 the local county emergency management department shall be  
 212 primarily responsible for administering the program within that  
 213 county. In counties that do not have active programs, the  
 214 Division of Emergency Management shall have the authority to pre-  
 215 certify businesses as members of the State Emergency Response  
 216 Team and issue appropriate signage.

217 (2) At a minimum, businesses that are pre-certified as  
 218 State Emergency Response Team members must have the on-site  
 219 capability to provide fuel dispensing services to other State  
 220 Emergency Response Team members within 36 hours after a major  
 221 disaster has occurred, or demonstrate the ability to have such  
 222 service available, and agree to make service available as needed.  
 223 Businesses may choose to sell fuel through a preexisting contract  
 224 with local, state, and federal response agencies or may provide  
 225 point-of-sale service to such agencies. In addition, businesses  
 226 may choose to sell to the general public, or may be directed to  
 227 provide such service by county or state emergency management  
 228 officers pursuant to s. 252.35 and s. 252.38. If requested,  
 229 appropriate law enforcement security may be provided to the  
 230 participating business for the purpose of maintaining civil order  
 231 during operating hours.

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232        (3) Persons who are designated as members of the State  
233        Emergency Response Team and who can produce appropriate  
234        identification, as determined by state or county emergency  
235        management officials, will be given priority for fuel purchase at  
236        businesses designated as State Emergency Response Team members.  
237        Businesses may be directed by county or state emergency  
238        management officials to remain open for some period during  
239        declared curfew to provide service for emergency personnel. Under  
240        such direction, the business shall not be in violation of the  
241        curfew and shall not be penalized for such operation, nor shall  
242        the emergency personnel be in violation of such curfew. Persons  
243        traveling during periods of curfew shall be required to produce  
244        valid official documentation of their State Emergency Response  
245        Team or local emergency response position. Such documentation may  
246        include, but is not limited to, current State Emergency Response  
247        Team identification badge, current law enforcement or other  
248        response agency identification or shield, current health care  
249        employee identification card, or current government services  
250        identification card indicating a critical services position.

251        (4) Businesses that are designated as State Emergency  
252        Response Team members may request priority re-supply fueling in  
253        order to continue service to emergency responders. Such request  
254        is not binding, but shall be considered by emergency managers in  
255        determining appropriate response protocol.

256        (5) Motor fuel retail outlets that choose to participate in  
257        the Florida Disaster Motor Fuel Supplier Program may receive a  
258        state tax credit of up to 25 percent of the value of a purchase  
259        of equipment and installation required to meet certification  
260        requirements established by the Division of Emergency

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Management's local county emergency management director. The total tax credit for an individual certified location may not exceed \$15,000. The Florida Department of Revenue is authorized to issue the tax credit with prior approval with the facility's payment of taxes on motor fuel sales or corporate taxes to be predetermined by both the department and the facility owner.

(6) Regulation of alternate power sources at motor fuel outlets and other facilities preempted to the state.--Notwithstanding any other law or local ordinance, and to ensure an appropriate emergency management response to major disasters in the state, the regulation, requirements for site, and placement of alternate power source capabilities and equipment at motor fuel terminal facilities, wholesalers, and retail sales outlets shall be exclusively controlled by the state.

(7) Review of Florida disaster motor fuel supply distribution.--The Department of Environmental Protection Energy Office shall review situational progress in post disaster motor fuel supply distribution and provide a report to the Legislature by March 1, 2007. The report shall include information on statewide compliance with s. 526.143 and identification of all motor fuel retail outlets that are participating in the Florida Disaster Motor Fuel Supplier Program.

Section 4. Subsection (4) is added to section 553.509, Florida Statutes, to read:

553.509 Vertical accessibility.--Nothing in sections 553.501-553.513 or the guidelines shall be construed to relieve the owner of any building, structure, or facility governed by those sections from the duty to provide vertical accessibility to

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all levels above and below the occupiable grade level, regardless of whether the guidelines require an elevator to be installed in such building, structure, or facility, except for:

(4)(a) Any person, firm, or corporation that owns or operates a residential multifamily dwelling, including a condominium, which is at least 75 feet high and contains a public elevator, as described in s. 399.035(2) and (3) and rules promulgated by the Florida Building Commission shall have at least one public elevator that is capable of operating on an alternate generated power source for emergency purposes.

Alternate generated power shall be available for the purpose of allowing all residents access for a number of hours each day over a 5-day period following a natural disaster, manmade disaster, emergency, or other civil disturbance that disrupts the normal supply of electricity. The alternate generated power source must be capable of powering any connected fire alarm system in the building which controls elevator operations.

(b) At a minimum, the elevator must be appropriately pre-wired and prepared to accept alternate generated power and must have a connection on the line side of the main disconnect, pursuant to National Electric Code Handbook, Article 700. In addition to the required power source for the elevator and connected fire alarm system in the building, the alternate power supply must be sufficient to provide emergency lighting to the lobbies, hallways, and other portions of the building used by the public. Residential multifamily dwellings must have an available generator and fuel source on the property or have proof of a current guaranteed service contract for such equipment and fuel source to operate the elevator on-call within 24 hours after a

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request. Local building inspectors must provide verification of engineering plans for alternate generated power capability for such buildings to the emergency management director of the county by December 31, 2006. Verification of installation and operational capability must be made by local building inspectors to the emergency management director of the county by December 31, 2007.

(c) Each newly constructed residential multifamily dwelling, as defined in this section, which has an operating elevator must have at least one public elevator that is capable of operating on an alternate generated power source for the purpose of allowing all residents access for a number of hours each day over a 5-day period following a natural disaster, manmade disaster, emergency, or other civil disturbance that disrupts the normal supply of electricity. The alternate generated power source must be capable of powering any connected fire alarm system in the building which controls elevator operations. In addition to the required power source for the elevator and connected fire alarm system in the building, the alternate power supply must be sufficient to provide emergency lighting to the lobbies, hallways, and other portions of the building used by the public. Engineering plans and verification of operational capability must be provided by the local building inspector to the emergency management director of the local county before occupancy of the newly constructed building.

(d) Each person, firm, or corporation that is required to maintain alternate generated power under this section shall maintain a written emergency operations plan that details the sequence of operations before, during, and after a natural or

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manmade disaster or other emergency situation. The plan must include, at a minimum, a life-safety plan for evacuation, maintenance of the electrical and lighting supply, and provision for the health, safety, and welfare of the residents. In addition, the owner or operator of the residential multifamily dwelling must keep a log containing a list of quarterly inspections to keep life-safety and alternate power generation equipment in good and working condition and any contracts for alternate power generation equipment. The written emergency operations plan and log shall be open for periodic inspections by local and state government agencies as deemed necessary. The owner or operator must keep a generator key in a lockbox posted at or near any installed generator unit.

(e) As a part of the annual elevator inspection required in F.S. 399.061, certified inspectors shall confirm that all installed generators required by this chapter are in working order, that the logs are current, and that the required generator key is present in the lockbox posted at or near the installed generator. If a building does not have an installed generator, the inspector shall confirm that the appropriate pre-wiring and switching capabilities are operational and that a contract for contingent services for alternate generated power is current for the operating period.

However, buildings, structures, and facilities must, as a minimum, comply with the requirements in the Americans with Disabilities Act Accessibility Guidelines.

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Section 5. Paragraph (i) of subsection (2) of section 252.35, Florida Statutes, is amended, and paragraph (j) is created to read:

252.35 Emergency management powers; Division of Emergency Management.--

(2) The division is responsible for carrying out the provisions of ss. 252.31-252.90. In performing its duties under ss. 252.31-252.90, the division shall:

(i) Institute statewide public awareness programs. This shall include an intensive public educational campaign on emergency preparedness issues including but not limited to personal responsibility of individual citizens to be self sufficient for up to 72 hours following a natural or manmade disaster. The public educational campaign shall include relevant information on statewide disaster plans, evacuation routes, fuel suppliers and sheltering information. All educational materials must be available in alternative formats and mediums to ensure that they are available to persons with disabilities.

(j) The Division of Emergency Management and the Department of Education shall coordinate with the Agency For Persons with Disabilities to provide an educational outreach program on disaster preparedness and readiness to individuals who have limited English skills and identify persons who are in need of assistance but are not defined under special needs criteria.

Section 6. This act shall take effect July 1, 2006.